

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2312388
Decision Date:	4/8/2024	Hearing Dates:	01/05/2024 and 04/08/2024
Hearing Officer:	Kimberly Scanlon		

Appearance for Appellant:

Via telephone

Pro se

Appearances for MassHealth:

Via telephone

Jesus Tijero, Quincy MEC (01/05/2024)

Luisa Cabral, Quincy MEC (04/08/2024)

Sarah Prado, PAU (1/05/2024)

Roxana Noriega, PAU (04/08/2024)



*The Commonwealth of Massachusetts
Executive Office of Health and Human Services
Office of Medicaid
Board of Hearings
100 Hancock Street, Quincy, Massachusetts 02171*

APPEAL DECISION

Appeal Decision:	Denied	Issue:	Eligibility; Under 65; Premium Assistance
Decision Date:	4/8/2024	Hearing Dates:	01/05/2024 and 04/08/2024
MassHealth's Reps.:	Jesus Tijero; Louisa Cabral; Sarah Prado; Roxana Noriega	Appellant's Rep.:	<i>Pro se</i>
Hearing Location:	Quincy MassHealth Enrollment Center (Remote)	Aid Pending:	Yes

Authority

This hearing was conducted pursuant to Massachusetts General Laws Chapter 118E, Chapter 30A, and the rules and regulations promulgated thereunder.

Jurisdiction

Through a notice dated October 11, 2023, MassHealth notified the appellant that she has health insurance available through her job that meets MassHealth Premium Assistance rules. The notice informs the appellant that she must enroll her three minor children in this insurance by December 10, 2023 or their MassHealth benefits may end (Exhibit 1). The appellant's minor children's benefits were continued pending the appeal.

The appellant filed a timely appeal of this notice on November 29, 2023. The scope of assistance is valid grounds for appeal. (130 CMR 610.032). A fair hearing was held on January 5, 2024. After the hearing, the record was reopened for a brief period for the submission of additional information. The hearing was then reconvened on April 8, 2024 for additional testimony.

Action Taken by MassHealth

MassHealth notified the appellant that, if she did not enroll her children in her employer-sponsored health insurance by December 10, 2023, their MassHealth benefits may end.

Issue

The appeal issue is whether MassHealth was correct in determining that the appellant was required to enroll in her children in her employer-sponsored health insurance.

Summary of Evidence

MassHealth was represented at the initial hearing by an eligibility representative and a representative from the Premium Assistance Unit; both parties participated by telephone. The record establishes the following: The appellant is an adult female who resides with her three minor children. The appellant's countable monthly income totals \$4,849.36, which is equal to 188.97% of the federal poverty level for her family size.¹ The appellant receives health insurance through the Massachusetts Health Connector. The appellant's three minor children receive MassHealth Family Assistance benefits with a total monthly premium of \$36.00. On October 11, 2023, MassHealth sent the appellant a notice it refers to as a qualifying event letter. That notice informed the appellant that she has health insurance available through her job that meets MassHealth Premium Assistance rules. The notice states that the appellant must enroll her three minor children in this insurance by December 10, 2023 or their MassHealth benefits may end (Exhibit 1). On December 18, 2023, MassHealth notified the appellant that she is not eligible for MassHealth due to excess income (Exhibit 1). On that same date, MassHealth notified the appellant that her minor children's MassHealth benefits would terminate on January 1, 2024 because the appellant did not enroll them in the health insurance available through her job (Exhibit 1).²

The PAU representative explained that because the appellant has employer-sponsored health insurance (ESI) that meets MassHealth Premium Assistance rules, she is required to enroll her minor children in this health insurance plan. She confirmed that PAU would cover the entire cost of the premium. The ESI would be the children's primary insurer, and MassHealth would be the secondary insurer (and would cover all deductibles and co-pays). The children's dental and vision coverage would continue through MassHealth.

¹ The MassHealth representative provided this income information after the hearing; it differs slightly from the figure listed on other MassHealth notices but was not disputed by the appellant.

² Because the appellant requested "aid pending, the children's benefits were protected during the appeal process per 130 CMR 610.036 and have not terminated.

The appellant appeared at the hearing by telephone and explained that her ESI is considered a high-deductible plan. Because she needs to enroll herself in order to enroll her children, she would then be subject to the high deductible and sub-standard coverage. She is satisfied with her coverage through the Connector, even though she still pays significant out-of-pocket funds to take care of her health. She testified that she is a single mother and receives no support from the children's father. He is obligated to split the children's health insurance costs with her, but she has never received any money from him. She has a lifetime restraining order against him, and therefore will never be able to recoup the funds he owes her. She does not have the funds to front costs associated with the ESI (Cigna) premiums. She is also worried that her current medical providers will not participate in Cigna's network of providers.

The PAU representative responded and stated that the PAU reimburses members the premiums costs in advance; she will therefore not have to front any money associated with the Cigna premiums. She will, however, be responsible for any other Cigna costs associated with *her* coverage, as she does not have MassHealth as a secondary insurer. The appellant repeated that she does not have extra funds to pay for anything other than groceries and other necessities.

At the reconvened hearing, MassHealth was represented by an eligibility representative and a representative from the Premium Assistance Unit; both parties participated by telephone. The PAU representative identified the appellant's ESI as Cigna HDHP, with a family in-network annual deductible of \$5,000. She also discussed Cigna HRA, another health plan available through the appellant's employer. After reviewing the specifics of the plan, she stated that this plan also meets MassHealth's Premium Assistance rules. She stated that PAU would send the appellant a new qualifying event letter.

Findings of Fact

Based on a preponderance of the evidence, I find the following:

1. The appellant is an adult female who resides with her three minor children.
2. The appellant's countable monthly income is equal to 188.97% of the federal poverty level for her family size.
3. The appellant receives health insurance through the Massachusetts Health Connector.
4. The appellant's three minor children receive MassHealth Family Assistance benefits with a total monthly premium of \$36.00.
5. On October 11, 2023, MassHealth notified the appellant that she has health insurance available through her job that meets MassHealth Premium Assistance rules. The notice

informs the appellant that she must enroll her three minor children in this insurance by December 10, 2023 or their MassHealth benefits may end.

7. On December 18, 2023, MassHealth notified the appellant that she is not eligible for MassHealth due to excess income.
8. On December 18, 2023, MassHealth notified the appellant that her minor children's MassHealth benefits would terminate on January 1, 2024, because appellant did not enroll them in the health insurance available through her job.
9. The appellant timely appealed these MassHealth actions.

Analysis and Conclusions of Law

The issue in this appeal is the MassHealth determination, through its PAU, that the appellant must enroll in her children in her ESI because it meets MassHealth Premium Assistance rules. Although the appellant would not incur any additional health insurance costs related to the children's coverage, she does not want to enroll in ESI due to the extra costs that will be associated with her own coverage. Specifically, because she does not have MassHealth coverage, she will be required to meet a high deductible and pay co-payments that far exceed the costs associated with her current coverage through the Connector. Further, she is worried that her (and her son's) current medical providers will not participate in Cigna's network of providers.

The MassHealth agency is the payer of last resort and pays for health care and related services only when no other source of payment is available, except as otherwise required by federal law. Pursuant to 130 CMR 503.007(A), every applicant and member must obtain and maintain available health insurance, and failure to do so may result in loss or denial of eligibility.³ The MassHealth agency may enroll MassHealth members in available employer-sponsored health insurance if that insurance meets the criteria for payment of premium assistance under 130 CMR 506.012(B): *Criteria* (130 CMR 503.007(C)).

In this case, MassHealth has determined that the appellant's children have access to health insurance that meets the criteria at 130 CMR 506.012(B). Under 130 CMR 506.012(B), MassHealth may provide a premium assistance payment to an eligible member when all the following criteria are met:

- (1) The health insurance coverage meets the Basic Benefit Level (BBL) as defined in 130 CMR 501.001: *Definition of Terms*. Instruments including, but not limited to, Health Reimbursement Arrangements, Flexible Spending

³ This rule does not apply to members receiving MassHealth Standard or CommonHealth who are younger than 21 years of age or pregnant.

Arrangements, as described in IRS Pub. 969, or Health Savings Accounts, as described at IRC § 223(c)(2), cannot be used to reduce the health insurance deductible in order to meet the basic-benefit level requirement.

- (2) The health insurance policy holder is either
 - (a) in the [family group]; or
 - (b) resides with the individual who is eligible for the premium assistance benefit and is related to the individual by blood, adoption, or marriage.
- (3) At least one person covered by the health insurance policy is eligible for MassHealth benefits as described in 130 CMR 506.012(A) and the health insurance policy is a policy that meets the criteria of the MassHealth coverage type for premium assistance benefits as described in 130 CMR 506.012(C).

Here, MassHealth's PAU has determined that all the above criteria have been met. This determination is supported by the record. The appellant's minor children are eligible for MassHealth Family Assistance benefits, a coverage type for which premium assistance payments are available (130 CMR 506.012(A)). Further, the appellant's available health insurance, ESI, is the type of private health insurance for which MassHealth may provide premium assistance (130 CMR 506.012(C)). The appellant's dispute appears to be related to PAU's determination that the health insurance meets the basic benefit level. MassHealth defines basic benefit level at 130 CMR 501.001, as follows:

(1) benefits provided under a health insurance plan that include a broad range of medical benefits as defined in the minimum creditable coverage core services requirements in 956 CMR 5.03(1)(a); provided that the annual deductible and the annual maximum out-of-pocket costs under that plan do not exceed the maximum amounts the Massachusetts Health Connector sets for deductibles and out-of-pocket costs in order for a plan to be considered minimum creditable coverage, as set forth at 956 CMR 5.03(2)(b)2 and 3, and 956 CMR 5.03(2)(c), respectively, and as may be illustrated in administrative bulletins published by the Massachusetts Health Connector, and as are in effect on the first day coverage under that plan begins.

(2) Exceptions.

- (a) For the avoidance of doubt, instruments including but not limited to Health Reimbursement Arrangements, Flexible Spending Arrangements, as described in IRS Pub. 969, or Health Savings Accounts, as described at IRC § 223(c)(2), cannot be used to reduce the health insurance deductible in order to meet the basic-benefit level requirement.
- (b) The MassHealth agency reserves the right to set its own annual deductible

and maximum out-of-pocket limits. If the MassHealth agency deems it appropriate to set its own annual deductible and maximum out-of-pocket limits, a sub-regulatory bulletin will be issued.

The appellant has not demonstrated that her ESI (Cigna HDHP) fails to meet the basic benefit level definition described above. Specifically, there is no evidence that the annual deductible and the annual maximum out-of-pocket costs under that plan exceed the maximum amounts the Massachusetts Health Connector sets for deductibles and out-of-pocket costs.

The appellant has not demonstrated that she is excused from enrolling her children in her ESI, and the appeal is denied.

Order for PAU/MassHealth

Send the appellant an updated qualifying event letter, allowing an additional 60 days for her to complete enrollment. Keep “aid pending” in place for 60 days from the date of this decision; remove aid pending after 60 days.

Notification of Your Right to Appeal to Court

If you disagree with this decision, you have the right to appeal to Court in accordance with Chapter 30A of the Massachusetts General Laws. To appeal, you must file a complaint with the Superior Court for the county where you reside, or Suffolk County Superior Court, within 30 days of your receipt of this decision.

Kimberly Scanlon
Hearing Officer
Board of Hearings

cc:

MassHealth Representative: Sylvia Tiar, Tewksbury MassHealth Enrollment Center, 367 East Street, Tewksbury, MA 01876-1957, 978-863-9290

MassHealth Premium Assistance Unit